

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
BINGHAMTON DIVISION**

DAVID POTTER, on behalf of himself and
others similarly situated,

Plaintiff,

v.

TIOGA DOWNS RACETRACK, LLC,

Defendant.

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Civil Action No.: 3:22-cv-00869-TJM-ML

**PLAINTIFF'S UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF
COLLECTIVE AND CLASS ACTION SETTLEMENT**

TO DEFENDANT AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT Plaintiff David Potter, individually and on behalf of all others similarly situated, will, and hereby does, move the Court pursuant to Federal Rule of Civil Procedure 23 and 29 U.S.C. § 216(b), for an Order:

1. Preliminarily approving the Settlement Agreement and all terms thereof;¹
2. For purposes of effectuating the Settlement Agreement only, certifying the NYLL Class pursuant to Federal Rule of Civil Procedure 23, and certifying the FLSA Collective pursuant the Fair Labor Standards Act;
3. Appointing David Potter as representative of the NYLL Class and FLSA Collective;

¹ All terms not otherwise defined herein have the definitions assigned to them in the parties' Settlement Agreement.

4. Appointing the Law Office of Matthew D. Carlson as Class/Collective Counsel;
5. Approving the Notice Form and notice plan (including the process of opting out and objecting to the settlement) pertaining thereto as set forth in Settlement Agreement;
6. Appointing CAC Services Group, LLC as Settlement Administrator and directing the parties and the Settlement Administrator to proceed in accordance with the terms of the Settlement Agreement;
7. Scheduling a Fairness Hearing regarding final approval of the Settlement Agreement, Class Counsel's request for attorneys' fees and costs, the Settlement Administrator's fees and costs, and the service award to the named Plaintiff; and
8. Removing all other current deadlines and hearings from the calendar.

This Motion is based on this Notice of Motion and Motion; the Memorandum of Points and Authorities below; the Declaration of Matthew D. Carlson filed concurrently herewith; any supporting exhibits filed herewith; all other pleadings and papers filed in this action; and any argument or evidence that may be presented at or prior to the hearing in this matter.

Respectfully submitted,

Matthew D. Carlson
(State Bar No. 5802681)
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Attorney for Plaintiff

Dated: June 23, 2023